

### **REMARKS**

Claims 1, 4-6, 8, 10 and 12-15 are currently pending in the application, as amended. Claims 7, 9 and 16 have been cancelled and claims 1, 5 and 12 have been amended. Specifically, claims 1 and 5 have been amended to include the features of a game on/off switch and a game level difficulty input switch to select a level of game difficulty. Claim 1 has also been amended to point out that the audible recording selected is dependent, in part, upon the level of game difficulty selected. In addition, claim 5 has been amended to point out that selection of the at least one of the plurality of audible recordings is based at least in part on a level of game difficulty input by a user. Claim 12 has been amended to include the features that an electronic controller is in communication with a game on/off switch, an audible feedback on/off switch and a game level difficulty input switch. Claim 12 has also been amended to include the method steps of actuating the game on/off switch to turn the game on, actuating the audible feedback on/off switch to activate the sound generator and the speaker and actuating the game level difficulty input switch wherein the controller takes into account a quality of the impact of a dart on the dart board depending upon the electronically-scored game being played and a level of game difficulty input by a user with the game level difficulty input switch. Support for these amendments to claims 1, 5 and 12 can be found in specification paragraphs 15 and 23, originally filed claims 7, 9 and 16 and in Figs. 1-4 of the application. Accordingly, no new matter has been added to the application as a result of the above-described amendments.

### **TELEPHONE INTERVIEW**

The above-described amendments were made as a result of a telephone interview with Examiner Cameron Saadat, which was conducted on April 19, 2007 to discuss a set of Proposed Amended Claims. The above-listed, amended claims are not identical to the Proposed Amended Claims discussed during the telephone interview, but have been modified in accordance with discussions between Examiner Saadat and the Undersigned during the telephone interview. As a result of the telephone interview, the Examiner agreed that the features of activating the controller upon occurrence of a triggering event to select at least one audible recording from the

memory, which takes into account a quality of the impact and a level of game difficulty input by a user with the game level difficulty input switch; and activating a sound generator to play the audible recording of a derisive character appears to distinguish over the prior art of record. These features were specifically discussed with respect to amended claim 12. Below is a summary of the arguments presented to the Examiner which resulted in the Examiner making the above-identified determination with respect to claim 12. In addition, the Applicants present several arguments directed to the additional pending claims with respect to the previously presented arguments of the Examiner. The Undersigned and the Applicants would like to thank the Examiner for the courtesies extended during the interview.

### **CLAIM REJECTIONS**

The Examiner rejected claims 1, 4-6, 8, 10 and 12-15 under 34 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,974,857 (Beall) in view of U.S. Patent No. 6,283,872 (Lichodziejewski). The Examiner argues that Beall discloses each of the elements of the above-listed claims except for explicitly disclosing that the audible recording selected is of a derisive character when the quality of the at least one activity associated with the game is unfavorable. The Examiner further argues that Lichodziejewski discloses this element and it would have been obvious to one having ordinary skill in the art to modify the audible recordings described in Beall, by providing audible recordings of a derisive character that taunts the player when the quality of the player's game performance is unfavorable in order to attract and maintain attention of the game player in view of Lichodziejewski. Applicants respectfully traverse this rejection.

Referring to Figs. 1-4, Beall is directed to an electronic dart game that provides audible scoring and set up information for a visually impaired person or a handicapped individual. The electronic dart game includes a dartboard 11 mounted to an upright cabinet 12 and a roll out mat 43 having a physically perceptible throwing line 44 mounted within the cabinet 12. A control panel 40 is mounted to a front of the cabinet 12, switches 17 for selecting game options and a switch 18A for selecting a number of players is mounted to a side of the cabinet 12. The dart game is controlled by a microprocessor 22 that is in communication with a target head switch matrix 25. The matrix 25 is positioned behind the dartboard 11 to sense dart 13 impacts. A speech memory 39, a random access memory 28 for keeping score of the game and a speaker 32

to provide audible indications to the visually impaired user are each in communication with the microprocessor 22. The audible indications are dependent upon the game being played and the impact of the darts to direct the visually impaired or blind individuals through the dart game.

In operation, the roll out mat 43 is pulled out of the cabinet 12 and positioned such that a visually impaired user is able to physically judge the distance from the dartboard 11 by stepping on the throwing line 44. Manipulation of the control panel 40 permits the user to select a game and the microprocessor 22 prepares and keeps track of a game score. As the user throws the darts 13 at the dartboard 11 and points are scored, the target head switch matrix 25 relays the scores to the microprocessor 22. The microprocessor 22 indicates the scoring information, setup information and general progress of the game to the sight impaired user utilizing the speech memory 39 and the speaker 32. Utilization of the dartboard game of Beall permits a visually impaired individual to play darts without being accompanied by a companion who is not visually impaired.

Referring to Figs. 1, 4, 8 and 11, Lichodziejewski is directed to a toy bowling game 10 including a plurality of pins 12a-12f, a base 14 and a bowling ball 16. During game play, the game may taunt a user if the pins are not struck during play or the user takes an inordinately long amount of time to take their turn (Col. 6, line 14 – Col. 8, line 60). Accordingly, the taunting is dependent exclusively on whether the pins are toppled during play.

Referring to Figs. 1-4, the present application is directed to an electronically-scored dart game 10 and a method of playing the electronically-scored game wherein unfavorable play is heckled by the game or negative or derisive sound recordings are played as a result of unfavorable game play. The electronically-scored dart game 10 includes an electronic controller 120 and at least one sensor 110 operatively connected to the controller 120. The at least one sensor 110 is adapted to detect at least one activity associated with the game and to generate a signal. A memory 170 stores information corresponding to a plurality of audible recordings and is operatively connected to the controller 120. At least one of the plurality of audible recordings is of a derisive character. A level difficulty switch 136 is mounted to a face of the game 10 for selecting a level of game difficulty. A sound generator 180 is operatively connected with the controller 120 and a speaker 184 is operatively connected to the sound generator 180. When the controller 120 detects an activity associated with the game from a signal from the sensor 110, one of the audible recordings is selected and played by the sound generator 180 through the

speaker 184. The audible recording is dependent, at least in part, upon the level of difficulty selected with the level of difficulty switch 136. The audible recording played by the sound generator 180 is the derisive audible recording when the quality of the activity of the game is unfavorable and the level of derision is greater when the game level of difficulty is set higher by the user. For example, if a dart misses its expected target, poor scores are recorded in a single round, the player “busts” in a certain game or a player takes too much time to throw a dart, the electronically-scored dart game 10 may play the derisive audible recording to heckle the player. In addition, if a high level of difficulty is selected, the derisive audible recording may be more forceful or be played quicker if a dart is not thrown when compared to when a lower level of difficulty is selected. However, the level of difficulty does not impact the scoring of the selected dart game or other aspects of the dart game except for the audible recordings that are selected.

Amended Claim 1

Amended claim 1 is directed to an electronically-scored game and recites, *inter alia*, as follows:

- an electronic controller;
- at least one sensor operatively connected with the controller...;
- a game on/off switch;
- a memory storing information corresponding to a plurality of audible recordings ... at least one of the plurality of audible recordings being of a derisive character;
- a game level difficulty input switch to select a level of game difficulty;
- a sound generator operatively connected with a controller; and
- a speaker operatively connected with the sound generator, whereby upon detection of the at least one activity associated with the game, the signal from the sensor activates the controller to cause at least one of the plurality of audible recordings to be selected, dependent at least in part upon the level of game difficulty selected, and played by the sound generator through the speaker, the audible recording played by the sound generator being the derisive audible recording when the quality of the at least one activity of the game is unfavorable.

Applicants respectfully submit that no combination of Beall in view of Lichodziejewski would result in an electronically-scored game having each and every element of amended claim

1. Specifically, Applicants respectfully submit that even if Beall were modified in view of Lichodziejewski to include derisive audible recordings, the combined device would not include a game level of difficulty input switch to select a level of game difficulty, wherein the selected level of difficulty impacts the derisive audible recording that is played during the game. Specifically, Beall discloses switches 17 for selecting game options and the number of players switch 18A and Lichodziejewski discloses mode switches including an on/off switch 70, a practice switch 72 and a game switch 74. There is no teaching, suggestion or disclosure in Beall or Lichodziejewski of a game level difficulty switch, as is claimed in claim 1 of the present application and no combination of Beall in view of Lichodziejewski would include such a switch, because neither reference discloses such a switch.

The Examiner rejected claim 9, which has been cancelled but included the feature of the game level difficulty input switch, as being unpatentable over Beall in view of Lichodziejewski and further in view of U.S. Patent No. 5,642,886 (Yancey). The Examiner argued that it would have been obvious to modify the combined game of Beall in view of Lichodziejewski to include a level of difficulty input switch in view of Yancey. Applicants respectfully traverse this rejection with respect to amended claim 1, which includes the game level difficulty input switch feature.

Yancey is directed to a method of playing a simulated golf game using a dart and a dart board and includes a feature that allows a user to select a difficulty level to adjust the level of play (Col. 4, line 48 – Col. 5, line 32). Selection of the various levels of play modifies the scoring and sequence of the game being played. Yancey does not disclose any audible feedback for the golf game that is modified by the difficulty level that is selected by the user.

Applicants respectfully submit that even if Beall were modified in view of Lichodziejewski to include derisive audible recordings and in view of Yancey to include a level of difficulty input switch, the modified device would not include all of the features of amended claim 1. Specifically, the modified device would not include the feature of the derisive audible recording selected being dependent upon the level of game difficulty selected using the game level difficulty input switch and the detection of the activity associated with the game. That is, even if Beall were modified to include the level of difficulty input switch of Yancey, the selected difficulty level would only impact the scoring or sequence of play of the game, as is disclosed in Yancey, and not the selection of the derisive audible recording that is played during the game.

Accordingly, Applicants respectfully submit that amended claim 1 is patentable over any combination of Beall in view of Lichodziejewski and further in view of Yancey.

Based upon each of the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of amended claim 1 based upon Beall in view of Lichodziejewski or Beall in view of Lichodziejewski and further in view of Yancey.

Claim 4 is dependent upon claim 1. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 4 based at least upon the dependence of claim 4 on amended claim 1.

#### Amended Claim 5

Amended claim 5 is directed to an electronically scored dart game and recites, *inter alia*, as follows:

...

an electronic controller;

...

a memory storing a plurality of audible recordings, the memory being operatively connected with the controller;

...

a sound generator operatively connected with the controller;

a speaker operatively connected with the sound generator, whereby upon occurrence of a triggering event, the controller selects at least one of the plurality of audible recordings from the memory and activates the sound generator to play the at least one of the plurality of audible recordings through the speaker, the at least one of the plurality of audible recordings selected being of a derisive character when the triggering event reflects an undesirable quality of play; and

a game level difficulty input switch, wherein selection of the at least one of the plurality of audible recordings is based at least in part on a level of game difficulty input by a user.

Applicants respectfully submit that no combination of Beall in view of Lichodziejewski would result in an electronically scored dart game including each and every element of currently pending claim 5 on the present application. Specifically, Applicants respectfully submit that no combination of Beall in view of Lichodziejewski by one having ordinary skill in the art would

result in an electronically scored dart game including a game level difficulty input switch wherein selection of an audible recording to be played is based at least in part on a level of the game difficulty input by a user with the game level difficulty input switch. Specifically, neither Beall nor Lichodziejewski disclose a game level difficulty input switch. Further, there is no teaching, suggestion or disclosure in Beall or Lichodziejewski wherein selection of an audible recording is based on a level of game difficulty input by a user. In addition, such features would not be obvious to one having ordinary skill in the art based upon the disclosures of Beall or Lichodziejewski. There is no modification of the audible recordings of Beall or Lichodziejewski based upon a level of game difficulty input by a user and one having ordinary skill in the art would not add such a feature, because such an inclusion would be impermissible hindsight reconstruction based upon the disclosure in the present application. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 5 based upon unpatentability over Beall in view of Lichodziejewski.

As was described above, the Examiner rejected claim 9, which has been cancelled, but included the feature of the game level difficulty input switch, as being unpatentable over Beall in view of Lichodziejewski and further in view of Yancey. Applicants respectfully traverse this rejection with respect to amended claim 5, which includes the game level difficulty input switch feature.

Applicants respectfully submit that even if Beall were modified in view of Lichodziejewski to include derisive audible recordings and in view of Yancey to include a level of difficulty input switch, the modified device would not include all of the features of amended claim 5. Specifically, the modified device would not include the feature of the derisive audible recording selected being dependent at least in part upon the level of game difficulty selected using the game level difficulty input switch. That is, even if Beall were modified to include the level of difficulty input switch of Yancey, the selected difficulty level would only impact the scoring or sequence of play of the game and not the selection of the derisive audible recording that is played during the game. Accordingly, Applicants respectfully submit that amended claim 5 is patentable over any combination of Beall in view of Lichodziejewski and further in view of Yancey.

Based upon each of the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of amended claim 5 based upon Beall in view of Lichodziejewski or Beall in view of Lichodziejewski and further in view of Yancey.

Claims 6, 8 and 10 are dependent upon claim 5. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 6, 8 and 10 based at least upon their dependence upon claim 5.

Amended Claim 12

Claim 12 is directed to a method of playing an electronically-scored dart game and recites, *inter alia*, as follows:

actuating the game on/off switch to turn the game on;

actuating the audible feedback on/off switch to activate the sound generator and the speaker;

actuating the game level difficulty input switch;

impacting the dart board with the at least one dart;

sensing the position of the impact on the dart board with the sensor;

generating the signal from the sensor to the controller;

activating the controller upon occurrence of a triggering event to select at least one audible recording from the memory, which takes into account a quality of the impact depending upon the electronically-scored dart game being played and a level of game difficulty input by a user with the game level difficulty input switch; and

activating the sound generator to play the audible recording of the derisive character through the speaker when the quality of the impact is unfavorable.

Applicants respectfully submit that no combination of Beall in view of Lichodziejewski would result in a method of playing an electronically-scored dart game having each of the method steps of claim 12, as amended. Specifically, Applicants respectfully submit that no combination of Beall in view of Lichodziejewski would include activating the sound generator to play an audible recording that is selected by taking into account a quality of the impact of the



dart and the level of game difficulty input by the user. Although Beall may play audible recordings based upon dart impacts and even if Beall were modified to include derisive audible recordings, as is suggested by the Examiner (Applicants do not agree that Beall would be so modified), the modified dartboard of Beall would not include the step of activating the controller to select at least one audible recording from the memory, which takes into account a quality of the impact and a level of game difficulty input by a user. Specifically, there is no teaching, suggestion or disclosure in Beall or Lichodziejewski or any of the additional references currently of record in the application that the audible recording is dependent upon the impact of the dart and the level of difficulty selected by the user. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of amended claim 12 based upon unpatentability over Beall in view of Lichodziejewski.

As was described above, the Examiner rejected claim 9, which has been cancelled, but included the feature of the game level difficulty input switch, as being unpatentable over Beall in view of Lichodziejewski and further in view of Yancey. Applicants respectfully traverse this rejection with respect to amended claim 12, which includes the game level difficulty input switch feature.

Applicants respectfully submit that no combination of Beall in view of Lichodziejewski and further in view of Yancey would result in an electronically scored dart game including a game level difficulty input switch wherein the selection of the audible recording is based at least in part on a level of game difficulty input by a user. As was described above, the level of difficulty of Yancey is exclusively directed to affecting the scoring of the game or the sequence of game play, as opposed to affecting any audible feedback of the game. Accordingly, any combination of Beall in view of Lichodziejewski and further in view of Yancey would, at best, result in a dart game where modification of the level of difficulty of the game would only impact the score of the game, as opposed to the selection of an audible recording played by the game. Therefore, Applicants respectfully submit that claim 12 is patentable over any combination of Beall in view of Lichodziejewski and further in view of Yancey for the above-described reasons.

#### Claims 7 and 16

The Examiner rejected claims 7 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Beall in view of Lichodziejewski and further in view of U.S. Patent No. 5,971,397


(Miguel). Claims 7 and 16 have been cancelled, thereby rendering the rejection of these claims moot.

**CONCLUSION**

In view of the foregoing Amendment and remarks, Applicants respectfully submit that the present application, including claims 1, 4-6, 8, 10 and 12-15, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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May 25, 2007 By:   
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